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10 **BEFORE THE**
11 **BOARD OF REGISTERED NURSING**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

Case No. 2010-3

14 **MELANIE LYNN BUETTNER**

A C C U S A T I O N

15 324 Lakeshore Ridge
Birmingham, AL 35211

16 2495 Mockingbird Lane NW
17 Hartselle, AL 35640

18 Registered Nurse License No. RN 625628

19 Respondent.
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21 Heidi Goodman ("Complainant") alleges:

22 **PARTIES**

23 1. Complainant brings this Accusation solely in her official capacity as the
24 Assistant Executive Officer of the Board of Registered Nursing ("Board"), Department of
25 Consumer Affairs.

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1 **License History**

2 2. On or about September 8, 2003, the Board issued Registered Nurse
3 License Number RN 625628 ("license") to Melanie Lynn Buettner ("Respondent"). The license
4 expired on December 31, 2006, and has not been renewed.

5 **JURISDICTION**

6 3. Section 2750 of the Business and Professions Code ("Code") provides, in
7 pertinent part, that the Board may discipline any licensee, including a licensee holding a
8 temporary or an inactive license, for any reason provided in Article 3 (commencing with Code
9 section 2750) of the Nursing Practice Act.

10 4. Code section 2764 provides, in pertinent part, that the expiration of a
11 license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding
12 against the licensee or to render a decision imposing discipline on the license. Under Code
13 section 2811, subdivision (b), the Board may renew an expired license at any time within eight
14 years after the expiration.

15 5. Code section 118, subdivision (b), provides that the suspension,
16 expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to
17 proceed with a disciplinary action during the period within which the license may be renewed,
18 restored, reissued or reinstated.

19 **STATUTORY PROVISIONS**

20 6. Code section 2761 states, in pertinent part:

21 The board may take disciplinary action against a certified
22 or licensed nurse or deny an application for a certificate or license
for any of the following:

23 (a) Unprofessional conduct, . . .

24 7. Code section 2762 states, in pertinent part:

25 In addition to other acts constituting unprofessional
26 conduct within the meaning of this chapter [the Nursing Practice
Act], it is unprofessional conduct for a person licensed under this
chapter to do any of the following:

27 (a) Obtain or possess in violation of law, or prescribe,
28 or except as directed by a licensed physician and surgeon, dentist,

1 or podiatrist administer to himself or herself, or furnish or
2 administer to another, any controlled substance as defined in
3 Division 10 (commencing with Section 11000) of the Health and
4 Safety Code or any dangerous drug or dangerous device as defined
5 in Section 4022.

6 (e) Falsify, or make grossly incorrect, grossly
7 inconsistent, or unintelligible entries in any hospital, patient, or
8 other record pertaining to the substances described in subdivision
9 (a) of this section.

10 8. Health and Safety Code Section 11173, subdivision (a), provides that no
11 person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure
12 the administration of or prescription for controlled substances: (1) by fraud, deceit,
13 misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

14 **COST RECOVERY**

15 9. Code section 125.3 provides, in pertinent part, that the Board may request
16 the administrative law judge to direct a licensee found to have committed a violation or
17 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
18 and enforcement of the case.

19 **10. DRUGS**

20 "Darvocet," a brand of Propoxyphene Napsylate, is a Schedule IV controlled
21 substance, as designated by H&S Safety Code section 11057, subdivision (c)(2).

22 "Demerol" is a Schedule II controlled substance, as designated by Health and
23 Safety Code section 11055, subdivision (c)(17).

24 "Morphine (MS)" is a Schedule II controlled substance, as designated by Health
25 and Safety Code section 11055, subdivision (b)(1)(M).

26 "Percocet," a brand name for "Oxycodone," is a Schedule II controlled
27 substance, as designated by Health and Safety Code section 11055, subdivision (b)(1)(N).

28 **FIRST CAUSE FOR DISCIPLINE**

(Incorrect and/or Inconsistent Entries in Hospital and/or Patient Records)

11. Respondent is subject to disciplinary action under Code section 2761,
subdivision (a), on the grounds of unprofessional conduct, as defined in Code section 2762,

subdivision (e), in that while on duty as a registered nurse, Respondent made grossly incorrect or grossly inconsistent entries in hospital and/or patient records, as follows:

Foothill Presbyterian Hospital in Glendora, California

Patient MR# 62653

a. On January 5, 2004, at 2030 and 2305 hours each time, Respondent documented a withdrawal of 5 mg. of Morphine Sulphate, a controlled substance, in the hospital's Narcotic and Medication Administration Record for this patient. At 2030 hours, Respondent charted the administration of 5 mg. of Morphine Sulphate in the patient's Medication Record, but failed to account for the wastage or disposition of the remaining 5 mgs. of Morphine Sulphate in any patient record or hospital record.

b. On January 6, 2004, at 0300 hours, Respondent documented a withdrawal of 5 mg. of Morphine Sulphate, a controlled substance, in the hospital's Narcotic and Hypnotic Administration Record for this patient. Respondent failed to chart the administration of the 5 mgs. of Morphine Sulphate in the patient's Medication Record, or otherwise account for the wastage or disposition of the 5 mgs. of Morphine Sulphate in any patient record or hospital record.

c. On January 10, 2004, at 0450 hours, Respondent documented a withdrawal of 5 mgs. of Morphine Sulphate, a controlled substance, in the hospital's Narcotic and Hypnotic Administration Record for this patient. Respondent failed to chart the administration of the 5 mgs. of Morphine Sulphate in the patient's Medication Record, or otherwise account for the wastage or disposition of the 5 mgs. of Morphine Sulphate in any patient record or hospital record.

Patient #129861

d. On January 11, 2004, at 2345, 2350 and 0400 hours, each time, Respondent documented a withdrawal of 25 mgs. of Demerol, a controlled substance, in the hospital's Narcotic and Hypnotic Administration Record for this patient. Respondent failed to chart the administration of any of the 75 mgs. of Demerol in the patient's Medication Record, or

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1 otherwise account for the wastage or disposition of the 75 mgs. of Demerol in any patient record
2 or hospital record.

3 Patient #312810

4 e. On January 11, 2004, at 2345 hours, Respondent documented a
5 withdrawal of 25 mgs. of Demerol, a controlled substance, in the hospital's Narcotic and
6 Hypnotic Administration Record for this patient. Respondent failed to chart the administration
7 of the 25 mgs. of Demerol in the patient's Medication Record, or otherwise account for the
8 wastage or disposition of the 25 mgs. of Demerol in any patient record or hospital record.

9 Patient #146802

10 f. On January 10, 2004, at 0400 hours, Respondent documented a
11 withdrawal of 100 mgs. of Demerol, a controlled substance, in the hospital's Narcotic and
12 Hypnotic Administration Record for this patient. Respondent failed to chart the administration
13 of the 100 mgs. of Demerol in the patient's Medication Record, or otherwise account for the
14 wastage or disposition of the 100 mgs. of Demerol in any patient record or hospital record.

15 g. On January 11, 2004, at 2030 hours, Respondent documented a
16 withdrawal of 75 mgs. of Demerol, a controlled substance, in the hospital's Narcotic and
17 Hypnotic Administration Record for this patient. Respondent failed to chart the administration
18 of the 75 mgs. of Demerol in the patient's Medication Record, or otherwise account for the
19 wastage or disposition of the 75 mgs. of Demerol in any patient record or hospital record.

20 h. On January 12, 2004, at 2030 hours, Respondent documented a
21 withdrawal of 100 mgs. of Darvocet, a controlled substance, in the hospital's Narcotic and
22 Hypnotic Administration Record for this patient. Respondent failed to chart the administration
23 of the 100 mgs. of Darvocet in the patient's Medication Record, or otherwise account for the
24 wastage or disposition of the 100 mgs. of Darvocet in any patient record or hospital record.

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1 **Hoag Memorial Hospital in Newport Beach, California**

2 Patient A:

3 i. On November 21, 2005, at 1716 hours, Respondent withdrew 2 tablets of
4 Percocet, a controlled substance, from the hospital's Pyxis¹ machine in the Post-Partum Unit,
5 when Respondent was assigned to the Neonatal Intensive Care Unit. Further, Respondent was
6 not assigned to this patient. Respondent failed to chart the administration of the Percocet in the
7 patient's Medication Administration Record, or otherwise account for the wastage or disposition
8 of the drugs in any patient record or hospital record.

9 Patient B:

10 j. On December 7, 2005, at 1027 hours, Respondent withdrew 2 tablets of
11 Percocet, a controlled substance, from the hospital's Pyxis machine in the Post-Partum Unit
12 when Respondent was assigned to the Neonatal Intensive Care Unit. Further, Respondent was
13 not assigned to this patient. Respondent failed to chart the administration of the Percocet in the
14 patient's Medication Administration Record, or otherwise account for the wastage or disposition
15 of the drugs in any patient record or hospital record.

16 **SECOND CAUSE FOR DISCIPLINE**

17 **(Obtained and Self-Administered a Controlled Substance)**

18 12. Respondent is subject to disciplinary action under Code section 2761,
19 subdivision (a), on the grounds of unprofessional conduct, as defined in Code section 2762,
20 subdivision (a), in that while employed as a registered nurse at Foothill Presbyterian Hospital in
21 2004 and Hoag Memorial Hospital in 2005, Respondent committed the following acts:

22 a. Between January 4, 2004, and January 12, 2004, Respondent obtained
23 Morphine Sulphate, Demerol and Darvocet, controlled substances, by fraud, deceit,
24 misrepresentation or subterfuge, or by a concealment of material fact, by obtaining the drugs
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26 1. **Pyxis** is a trade name for the automated single-unit dose medication dispensing system
27 that records information, including the patient name, physician orders, date and time the
28 medication was withdrawn, and the name of the individual who withdrew the drug.

1 from hospital supplies and keeping the drugs for her own personal use, in violation of Health and
2 Safety Code section 11173, subdivision (a).

3 b. On November 21, 2005 and December 7, 2005, Respondent obtained
4 Percocet tablets, a controlled substance, by fraud, deceit, misrepresentation or subterfuge, or by a
5 concealment of material fact, by obtaining the drugs from hospital supplies and keeping the
6 drugs for her own personal use, in violation of Health and Safety Code section 11173,
7 subdivision (a).

8 c. Respondent self-administered Percocet, a controlled substance, without
9 lawful authority.

10 **PRAYER**


11 WHEREFORE, Complainant requests that a hearing be held on the matters herein
12 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

13 1. Revoking or suspending Registered Nurse License Number RN 625628
14 issued to Melanie Lynn Buettner;

15 2. Ordering Melanie Lynn Buettner to pay the Board the reasonable costs of
16 the investigation and enforcement of this case, pursuant to Code section 125.3; and,

17 3. Taking such other and further action as deemed necessary and proper.

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19 DATED: 7/21/09

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22 HEIDI GOODMAN,
23 Assistant Executive Officer
24 Board of Registered Nursing
25 Department of Consumer Affairs
26 State of California
27 Complainant